



ADH
12W

Docket No. 32759
09/879,405

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re : Toshirio Sugiura et al.
Serial No. : 09/879,405
Filed : June 12, 2001
Group Art Unit : 2832
Confirmation No. : 4611
FOR : NOISE ELIMINATION DEVICE
AND METHOD FOR INSTALLING
THE SAME

Lowell, Massachusetts
January 6, 2005

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on January 6, 2005.

Walter F Dawson
WALTER F. DAWSON, Attorney, Reg. No. 30,046
January 6, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

PETITION TO REVIVE ABANDONED APPLICATION UNDER
37 C.F.R. § 1.137(b) UNINTENTIONAL

Applicant hereby Petitions, through his attorney of record, that the above identified application be restored to the pending files, that abandonment of the above-identified patent application be held to have been unintentional and that prosecution on the merits be continued.

The Petition fee of \$1,500.00 is enclosed herewith pursuant to 37 C.F.R. 1.17(m).

PEARSON & PEARSON, LLP
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01/12/2005 AHNDADF1 00000016 09879405 1500.00 0P
01 FC:1453

Applicant and Applicant's Attorney state that the entire delay in filing the required reply from the due date for reply until the filing of this Petition was Unintentional.

In response to an Office Action dated January 13, 2004 Applicant's attorney filed an Amendment dated May 3, 2004.

Applicants' attorney received a telephone call from Examiner Lincoln Donovan on November 12, 2004 who stated that a Notice of Non-Compliant Amendment was mailed on May 15, 2004 to Applicant's Attorney in which a reply was due within 1 month of the mailing date. Applicants' attorney stated that he had not seen the Notice, and that he did not find it in the file of the patent application.

Subsequently, Applicants' attorney received a Notice of Abandonment dated November 17, 2004 from the USPTO along with a copy of the Notice of Non-Compliant Amendment.

The Notice of Non-Compliant Amendment (37 C.F.R. 1.120) (copy enclosed) states that the listing of the claims (in the Amendment filed May 3, 2004) does not include the text of all the claims (including withdrawn claims), and requests that the text for withdrawn claims 4, 5 and 9-92 be provided.

Applicant is enclosing herein the response to the Notice of Non-Compliant Amendment which includes the entire "amendments to the claims" section of Applicants' Amendment filed on May 3, 2004 prepared in accordance with Rule 121; this section includes all the text of the withdrawn Claims 4, 5 and 9-92.

Therefore, it is requested that the delay in preparing and filing the enclosed Response and the enclosed Petition be found to be unintentional, that this Petition to Revive Abandoned Application be granted, that the patent application be revived and restored to the pending files, and that the enclosed Response be considered with the Amendment filed May 3, 2004 and examined by the Examiner.

The Commissioner of authorized to charge Deposit Account No. 16-0875 for any additional fees associated with this communication.

Respectfully Submitted,
PEARSON & PEARSON, LLP
By

Walter F Dawson

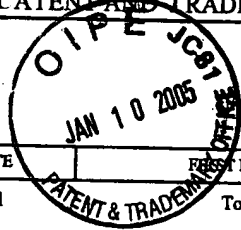
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,405	06/12/2001	Toshihiro Sugiura	32759	4611

29669 7590 05/15/2004
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EXAMINER	
POKER, JENNIFER A	
ART UNIT	PAPER NUMBER
2832	

DATE MAILED: 05/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 5-07-04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____
- ☐ 3. Amendments to the drawings: _____
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: please provide text for withdrawn claims 4, 5 and 9-92,

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officetlyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is **not extendable**.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Ann Bell
Legal Instruments Examiner (LIE)

571-272-1553
Telephone No.